



## MEMORANDUM

September 12, 2019

**To:** Aaron Carruthers, Executive Director  
**From:** Adam Lewis, Legal Counsel  
**Subject:** Disclosure of Program Development Grant Proposals

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At the Council's meeting on July 16, 2019, the Cycle 42 Grant Proposals were discussed. During the discussions about the proposals that received the highest scores from the scoring committee, some Councilmembers stated they would like to review the proposals before the meeting. It was agreed that SCDD Legal Counsel would look into whether the law allows Councilmembers to review future grant proposals before the Council's public meeting. The legal findings and recommendations were presented to the Executive Committee at its meeting on August 16, 2019. The Executive Committee decided to follow the recommended process for future proposals and asked the Executive Director to update the full Council at the September meeting. This Memorandum provides a brief summary of the legal findings and the process that will be used for future grant proposals.

If more than half of the Councilmembers review the scoring committee's selected proposals before the Council's meeting, the law requires the proposals to be immediately provided to any member of the public who asks to see them. There are many problems that may occur if the proposals are provided too soon before the Council's meeting. The California Supreme Court has ruled that there is a strong public interest to not make these types of documents available before a public meeting. People may not provide their best ideas in their proposals if their ideas could be shared with the public and other people who submit proposals. If people who submitted proposals were able to read the other proposals, they may try to talk to Councilmembers about their proposals before the public meeting. These types of discussions could violate the Bagley-Keene Open Meetings Act. They could also result in protests of the awards and delay the ability to award of the one-year grants.

It was decided that the best approach is to make the proposals that were selected by the scoring committee available to Councilmembers who request to review them the night before, or morning of, the Council meeting. Councilmembers could elect to receive the proposals by email or review a paper copy. Councilmembers who view the proposals should not discuss them with anyone prior to the Council's public meeting. This process seems the best way to balance the Councilmembers' interest in reviewing the proposals and the possible legal issues.